

MERCHANT, GOULD, SMITH, EDELL, WELTER &amp; SCHMIDT

## United States Patent Application

## COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor (if only one name is listed below) or a joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: LACTIC ACID PROCESSING; METHODS; ARRANGEMENTS; AND, PRODUCTS.

The specification of which

a. ☐ is attached hereto

b. ☒ was filed on October 14, 1997 as application serial no. 08/950,289 and was amended on (if applicable) (in the case of a PCT-file application) described and claimed in international no. filed and as amended on (if any), which I have reviewed and for which solicit a United States patent.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (attached hereto).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

a. ☒ no such applications have been filed.

b. ☐ such applications have been filed as follows:

FOREIGN APPLICATION(S), IF ANY, CLAIMING PRIORITY UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

  

ALL FOREIGN APPLICATION(S), IF ANY, FILED BEFORE THE PRIORITY APPLICATION(S)			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)

I hereby claim the benefit under Title 35, United States Code, § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)

I hereby appoint the following attorney, and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Adriano, Sarah B.	Reg. No. 34,470	Kowalchyk, Katherine M.	Reg. No. 36,848
Albrecht, John W.	Reg. No. 40,481	Lacy, Paul E.	Reg. No. 38,946
Batzli, Brian H.	Reg. No. 32,960	Larson, James A.	Reg. No. 40,443
Beard, John L.	Reg. No. 27,612	Lasky, Michael B.	Reg. No. 29,555
Beck, Robert C.	Reg. No. 28,184	Lindquist, Timothy A.	Reg. No. 40,701
Berman, Charles	Reg. No. 29,249	Lynch, David W.	Reg. No. 36,204
Bogucki, Raymond A.	Reg. No. 17,426	Mau, Michael L.	Reg. No. 30,087
Bruess, Steven C.	Reg. No. 34,130	Maunu, Leroy D.	Reg. No. 35,274
Byrne, Linda M.	Reg. No. 32,404	McDaniel, Karen D.	Reg. No. 37,674
Canady, Karen S.	Reg. No. 39,927	McDonald, Daniel W.	Reg. No. 32,044
Carlson, Alan G.	Reg. No. 25,959	McIntyre, Iain A.	Reg. No. 40,377
Carter, Charles G.	Reg. No. 35,093	Mueller, Douglas P.	Reg. No. 30,300
Caspers, Philip P.	Reg. No. 33,227	Nasiedlak, Tyler L.	Reg. No. 40,099
Chiapetta, James R.	Reg. No. 39,634	Nelson, Albin J.	Reg. No. 28,650
Clifford, John A.	Reg. No. 30,247	Orler, Anthony J.	Reg. No. 41,232
Conrad, Timothy R.	Reg. No. 30,164	Pauly, Daniel M.	Reg. No. 40,123
Cooper, Victor G.	Reg. No. 39,641	Plunkett, Theodore	Reg. No. 37,209
Crawford, Robert	Reg. No. 32,122	Pollinger, Steven J.	Reg. No. 35,326
Daignault, Ronald A.	Reg. No. 25,968	Pytel, Melissa J.	Reg. No. P-41,512
Daley, Dennis R.	Reg. No. 34,994	Reich, John C.	Reg. No. 37,703
Dalglish, Leslie E.	Reg. No. 40,579	Reiland, Earl D.	Reg. No. 25,767
Daulton, Julie R.	Reg. No. 36,414	Rittmaster, Ted R.	Reg. No. 32,933
DiPietro, Mark J.	Reg. No. 28,707	Schmaltz, David G.	Reg. No. 39,828
Edell, Robert T.	Reg. No. 20,187	Schmidt, Cecil C.	Reg. No. 20,566
Epp Ryan, Sandra	Reg. No. 39,667	Schuman, Mark D.	Reg. No. 31,197
Farber, Michael B.	Reg. No. 32,612	Schumann, Michael D.	Reg. No. 30,422
Funk, Steven R.	Reg. No. 37,830	Sebald, Gregory A.	Reg. No. 33,280
Gates, George H.	Reg. No. 33,500	Sharp, Janice A.	Reg. No. 34,051
Glance, Robert J.	Reg. No. 40,620	Skoog, Mark T.	Reg. No. 40,178
Golla, Charles E.	Reg. No. 26,896	Smith, Jerome R.	Reg. No. 35,684
Gorman, Alan G.	Reg. No. 38,472	Sumner, John P.	Reg. No. 29,114
Gould, John D.	Reg. No. 18,223	Sumners, John S.	Reg. No. 24,216
Gresens, John J.	Reg. No. 33,112	Tellekson, David K.	Reg. No. 32,314
Hamre, Curtis B.	Reg. No. 29,165	Underhill, Albert L.	Reg. No. 27,403
Hillson, Randall A.	Reg. No. 31,838	Vandenburgh, J. Derek	Reg. No. 32,179
Hollingsworth, Mark A.	Reg. No. 38,491	Victor, David W.	Reg. No. 39,867
Johnston, Scott W.	Reg. No. 39,721	Welter, Paul A.	Reg. No. 20,890
Kastelic, Joseph M.	Reg. No. 37,160	Williams, Douglas J.	Reg. No. 27,054
Kettelberger, Denise	Reg. No. 33,924	Wood, Gregory B.	Reg. No. 28,133
Komanduri, Janaki	Reg. No. 40,684	Xu, Min S.	Reg. No. 39,536
Kowalchyk, Alan W.	Reg. No. 31,535		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Merchant, Gould, Smith, Edell, Welter & Schmidt to the contrary.

Please direct all correspondence in this case to Merchant, Gould, Smith, Edell, Welter & Schmidt at the address indicated below:

Merchant, Gould, Smith, Edell,  
Welter & Schmidt  
3100 Norwest Center  
90 South Seventh Street  
Minneapolis, MN 55402-4131

I hereby declare that all statements made herein of my own knowledge are true and that statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2	Full Name Of Inventor	Family Name EYAL	First Given Name AHARON	Second Given Name M.
0	Residence & Citizenship	City JERUSALEM	State or Foreign Country ISRAEL	Country of Citizenship ISRAEL
1	Post Office Address	Post Office Address KUBBUTZ RAMAT RACHEL	City JERUSALEM	State & Zip Code/Country ISRAEL

Signature of Inventor 201:

Date:

*P. M. Eyal*

*March 22 1998*

2	Full Name Of Inventor	Family Name STARR	First Given Name JOHN	Second Given Name N.
0	Residence & Citizenship	City CHASKA	State or Foreign Country MINNESOTA	Country of Citizenship U.S.A.
2	Post Office Address	Post Office Address 2350 MANVELA DRIVE	City CHASKA	State & Zip Code/Country MINNESOTA 55318/U.S.A.

Signature of Inventor 202:

Date:

*John N Starr*

*3/11/98*

2	Full Name Of Inventor	Family Name FISHER	First Given Name ROD	Second Given Name
0	Residence & Citizenship	City EDEN PRAIRIE	State or Foreign Country MINNESOTA	Country of Citizenship U.S.A.
3	Post Office Address	Post Office Address 16822 S. SHORE LANE	City EDEN PRAIRIE	State & Zip Code/Country MINNESOTA 55346/U.S.A.

Signature of Inventor 203:

Date:

*Rod Fisher*

*3/27/98*

2	Full Name Of Inventor	Family Name HAZAN	First Given Name BETTY	Second Given Name
0	Residence & Citizenship	City JERUSALEM	State or Foreign Country ISRAEL	Country of Citizenship ISRAEL
4	Post Office Address	Post Office Address ICELAND 17/22	City JERUSALEM	State & Zip Code/Country ISRAEL

Signature of Inventor 204:

Date:

*B. HAZAN*

*MARCH 27 1998*

2	Full Name Of Inventor	Family Name CANARI	First Given Name RIKI	Second Given Name
0	Residence & Citizenship	City BEIT ZEIT	State or Foreign Country ISRAEL	Country of Citizenship ISRAEL
5	Post Office Address	Post Office Address BEIT ZEIT 34	City	State & Zip Code/Country ISRAEL 90815

Signature of Inventor 205:

Date:

*2/98*

*March 27 1998*

2	Full Name Of Inventor	Family Name WITZKE	First Given Name DAVID	Second Given Name R.
0	Residence & Citizenship	City OSKALOOSA	State or Foreign Country IOWA	Country of Citizenship U.S.A.
6	Post Office Address	Post Office Address 2420 MCMULLIN DRIVE	City OSKALOOSA	State & Zip Code/Country IOWA 52577/U.S.A.

Signature of Inventor 206:

*David R. Witzke*

Date:

3-11-98

2	Full Name Of Inventor	Family Name GRUBER	First Given Name PATRICK	Second Given Name R.
0	Residence & Citizenship	City BLAINE	State or Foreign Country MINNESOTA	Country of Citizenship U.S.A.
7	Post Office Address	Post Office Address 10951 FLANDERS COURT N.E.	City BLAINE	State & Zip Code/Country MINNESOTA 55449/U.S.A.

Signature of Inventor 207:

*Patrick R. Gruber*

Date:

3-11-98

2	Full Name Of Inventor	Family Name KOLSTAD	First Given Name JEFFREY	Second Given Name J.
0	Residence & Citizenship	City WAYZATA	State or Foreign Country MINNESOTA	Country of Citizenship U.S.A.
8	Post Office Address	Post Office Address 16122 RINGER ROAD	City WAYZATA	State & Zip Code/Country MINNESOTA 55391/U.S.A.

Signature of Inventor 208:

*Jeffrey Kolstad*

Date:

3-6-98

**§ 1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim

or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application:

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.